

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1001 OF 2003

Shri Satish Dhondumal Parekh, .. Petitioner

Vs

Smt.Parvatibai Shamanrao tidke

and ors.

.. Respondents

Mr R.S.Apte with Mr A.A.Garge, for the petitioner.

Mr P.S.Dani, for respondent nos 1 and 2.

Mr A.Tamhane i/b Ms Seema Sarnaik, for respondent no.5.

CORAM : D.B.BHOSALE, J.

DATE : FEBRUARY 16, 2005.

P.C.

1. Heard the learned counsel for the parties.

2. Mr Garge, learned counsel for the petitioners, seeks leave to add Ashok Motilal Kataria and Ashish Ashok Kataria as petitioners. Leave is granted. Amendment to be carried out forthwith. Mr Garge, undertakes that he will file Vakalatnama on behalf of the added petitioners within two weeks from today.

3. Rule. Returnable forthwith. The learned counsel waives service for the respondents. By consent, Rule is heard finally.

4 The petitioners have impugned the order dated 15.9.1999 passed below Exhibit-60-application filed by the petitioners under Order I, Rule 10(2) of the Code of Civil Procedure in Special Civil Suit No.291 of 1996. The suit is filed by respondent no.5 against respondent nos 1 to 4 - defendants for specific performance of the agreement. The specific performance was sought in respect of the property bearing survey no.761/2/1 admeasuring 53 Ares situate at Nashik. It appears that prior to the agreement which is the subject matter of the suit bearing Spl. Civil Suit No.291 of 1996, there was the Development Agreement dated 29.6.1995 between the petitioners and respondent nos 1 to 3. In view of that, the petitioners claim to be the persons interested in the property. Mr Garge, learned counsel for the petitioners, submits that the suit is still pending and has not proceeded further. Keeping that in view and considering the interest of the petitioners in the property which is the subject matter of the suit, this petition is allowed. Respondent no.5-plaintiff is directed to carry out the amendment within a period of four weeks from the date of receipt of this order. The trial Court shall endeavour to dispose of the suit expeditiously. Rule is disposed of.

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(D.B.BHOSALE, J.)